

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No. 1:21-cv-11792-ADB

LAURA M. SCALONE-FINTON,)
Plaintiff)
)
v.)
)
FALMOUTH PUBLIC SCHOOLS,)
MARY GANS, ALAN KAZARIAN)
DR. JOANY SANTA,)
Defendants)
)

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT
PURSUANT TO FED. R. CIV. P. 56

Pursuant to Fed. R. Civ. P. 56, Defendants Falmouth Public Schools (“the School District”), School District Principal Mary Gans (“Principal Gans”), School District Director of the Guidance Department Alan Kazarian (“Guidance Director Kazarian”), and School District Human Resources Director Dr. Joany Santa (“HR Director Santa”) (collectively, “Defendants”) move for summary judgment on all counts. For the reasons articulated in the accompanying memorandum of law, the Defendants are entitled to summary judgment in their favor on all counts because (1) anti-discrimination laws are not a general civility code; (2) there were employees who engaged in the same advocacy who, the Plaintiff alleges, were treated *better* than she; (3) the courts do not permit advocacy discrimination claims to proceed where the Plaintiff did not have a familial relation with the person for whom they advocated and the Plaintiff has never asserted such a relationship (4) the Plaintiff disclosed her disability *after* she claims she was discriminated against and there is no evidence the Defendants perceived she suffered from anxiety, PTSD or GERD; (5)

her alleged speech was made context of her role as a public employee and she is therefore not entitled to free speech protections; (6) her wrongfully termination claim is pre-empted by 151B, the ADA, and the Rehabilitation Act.

For these reasons and those argued in the Memorandum of Law, judgment should enter in favor of the Defendants on all claims against them.

Respectfully submitted,

The Defendants,
By their attorneys,

/s/ Erica L. Brody

Leonard H. Kesten, BBO# 542042
Erica L. Brody, BBO# 681572
Amy B. Bratskeir, BBO# 662034
BRODY, HARDOON, PERKINS & KESTEN, LLP
265 Franklin Street, 12th Floor
Boston, MA 02110
(617) 880-7100
lkestens@bhpklaw.com
ebrody@bhpklaw.com
abratskeir@bhpklaw.com

Dated: December 14, 2023

CERTIFICATION PURSUANT TO LOCAL RULE 7.1(A)(2)

I hereby certify that I have conferred with counsel for the Plaintiff in a good faith effort and we were not able to resolve or narrow the issues raised in this motion.

/s/ Erica L. Brody
Erica L. Brody, BBO# 681572

Dated: December 14, 2023

CERTIFICATE OF SERVICE

I hereby certify that this document was filed through the ECF system on December 14, 2023 and will therefore be sent electronically to the registered participants as identified on the Notice of Electric Filing (NEF) and paper copies will be sent to those participants indicated as non-registered participants.

/s/ Erica L. Brody
Erica L. Brody BBO# 681572

Dated: December 14, 2023